



# MONTGOMERY McCRACKEN

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March 13, 2020

**VIA ECF**

Hon. Douglas E. Arpert  
United States Magistrate Judge  
Clarkson S. Fisher Building  
& U.S. Courthouse  
Room 6000  
402 East State Street  
Trenton, NJ 08608

Re: **Lawson, et al. v. Praxair, Inc., et al.**  
**Civil Action No. 3:16-cv-02435-BRM-DEA**

Dear Judge Arpert:

As you know, we represent the Praxair Defendants in the above-referenced matter, but this letter is submitted on behalf of all parties. The parties are currently scheduled for a telephone status conference with Your Honor on Monday, March 16, 2020 at 2:30 pm. In advance of the conference, the parties submit this joint letter regarding the schedule of fact depositions that remain in this matter. All parties participated in a telephone meet-and-confer on March 12, 2020, and this letter is a summary of what was discussed. The parties acknowledge that the present uncertainty around the COVID-19 pandemic may cause significant disruptions and pose logistical impediments to the schedule, but all parties are committed to moving forward in good faith with the practical recognition that plans may need to be modified.

**A. Praxair Witnesses to be Deposed**

Since our last status call with the Court, Praxair has produced three witnesses for their depositions; in total Praxair has produced nine witnesses for depositions to date. Currently, the hospital is scheduled to depose Praxair witnesses Ken Zusi and Kevin Brady on March 17<sup>th</sup> and March 24<sup>th</sup>, respectively. Praxair is also working on providing dates for Martin Frith and certain additional corporate designees in response to UMCPP's 30(b)(6) notice. Once these depositions are complete, counsel for UMCPP will be in a better position to determine if additional depositions are needed in this case.

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With respect to Plaintiffs, Praxair is working on providing a date for Joe Million's deposition. Mr. Million is retired and is located in Buffalo, New York. Plaintiffs have also requested the deposition of a corporate designee related to the ESI issues in this case. That matter is currently pending before the Special Master, Judge Harry Carroll.

Plaintiffs have previously requested that Praxair produce Alain Lefevre, a former Praxair employee, for a deposition. Praxair has not been able to contact Mr. Lefevre and provided Plaintiffs with a last known address. Plaintiffs have been attempting to contact Mr. Lefevre to schedule his deposition and will continue to do so.

**B. UMCPP's Witnesses to be Deposed**

UMCPP has produced two witnesses for depositions to date. Currently, UMCPP's 30(b)(6) witness, Barbara Yost is scheduled to be deposed on April 16, 2020. Praxair has also requested the deposition of Joseph Leone and counsel for UMCPP is working on providing a date for his deposition. Once those depositions are completed, counsel for Praxair will be in a better position to determine how many additional depositions of UMCPP witnesses are needed in this case.

**C. Plaintiffs' Deposition**

Plaintiffs' counsel has offered April 22, 2020, as a date for Plaintiffs' depositions. Counsel is in the process of confirming whether that date will work. Defendants may have additional witnesses to depose following Plaintiffs' depositions.

As Your Honor is aware, the discovery end date in this case is currently set for May 15, 2020. While counsel is working diligently to meet the current discovery deadlines in this case, there is concern that the current health issues affecting this country may impact the ability to conduct some of these depositions, let alone the next ones to be scheduled, particularly with respect to witnesses who are not located in the tri-state area. Counsel is concerned that this issue may have an impact on the current discovery deadlines and necessitate modification of those deadlines.

Plaintiffs' request that the parties continue to use their best efforts to complete the depositions of fact witnesses in this case prior to the May 15, 2020 deadline. Many of these witnesses were identified in a joint October 25, 2019 letter to this Court, before any scheduling disruptions that may be caused by COVID-19 related issues.

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We will all be prepared to discuss these matters with Your Honor on Monday.

Respectfully submitted,

*s/Georgette Castner*

Georgette Castner

cc: All counsel of record (*via ECF*)